

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2011-007597-001 DT

04/24/2015

HONORABLE JOSEPH KREAMER

CLERK OF THE COURT  
S. Yoder  
Deputy

STATE OF ARIZONA

JEANNETTE GALLAGHER

v.

MACARIO LOPEZ JR. (001)

ERIC GEORGE CROCKER  
GARY J BEVILACQUA  
  
CAPITAL CASE MANAGER

STATUS CONFERENCE

1:30 p.m. This is the time set for Status Conference on Defendants' Motion for Evidentiary Hearing in Support of Motion to Strike Notice of Intent to Seek the Death Penalty. The following parties are present:

CR2013-103200-001, State v. Jorge Amaya Acuna	State's Attorney: Defendant's Attorney: Defendant:	Hilary Weinberg Jeffrey A. Kirchler and Joseph Stazzone Present
CR2011-138856-001 State v. John Michael Allen	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher Robert Reinhardt Presence Waived
CR2011-138856-003 State v. Sammantha Lucille Rebecca Allen	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher John Curry and Jeremy Bogart Presence Waived
CR2013-419619-002 State v. Darnell Moses Alvarez	State's Attorney: Defendant's Attorney: Defendant:	Marischa Gilla for Kirsten Valenzuela Michael Ziemba Present
CR2012-007044-001 State v. Ashley Denise Buckman	State's Attorney: Defendant's Attorney: Defendant:	Jessi Wade for Kirsten Valenzuela Eric Crocker for James Cleary Presence Waived

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2011-007597-001 DT

04/24/2015

CR2011-133622-001 State v. Jesus Antonio Busso- Estopellán	State's Attorney: Defendant's Attorney: Defendant:	Eric Basta Tonya Peterson and Stacy Hyder Present
CR2012-008340-001 State v. Kurt Dustin Coleman	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher for Patricia Stevens Gregory Navazo Present
CR2011-155640-001 State v. Corey Rasean Daniels	State's Attorney: Defendant's Attorney: Defendant:	Marischa Gilla R.J. Parker and Alan Tavassoli Present
CR2010-168096-001 State v. Craig Michael Devine	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher for Vince Goddard Steve Koestner and Bruce Buck Presence Waived
CR2013-003468-001 State v. Octavio Garcia	State's Attorney: Defendant's Attorney:  Defendant:	Jeannette Gallagher for Laura Reckart Alicia Dominguez, Lindsay Abramson and Cynthia Brubaker  Present
CR2010-137021-001 State v. Victor Hernandez	State's Attorney: Defendant's Attorney: Defendant:	Susie Charbel Brandon Cotto Present
CR2010-007912-001 State v. Darnell Reuna Jackson	State's Attorney: Defendant's Attorney: Defendant:	Jessi Wade for Kirsten Valenzuela Alan Tavassoli and R.J. Parker Present
CR2010-048824-001 State v. James Clayton Johnson	State's Attorney: Defendant's Attorney: Defendant:	Kristin Larish Robert Reinhardt and Peter Jones Presence Waived
CR2013-001614-001 State v. Moises Hernandez Lagunas	State's Attorney: Defendant's Attorney: Defendant: Interpreter:	Susie Charbel Tonya Peterson Present Fabiola Cerezo
CR2013-002559-001 State v. Dennis Michael Levis	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher for Vince Imbordino Steve Koestner and Bruce Buck Presence Waived
CR2011-007597-001 State v. Macario Lopez	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher Eric Crocker and Gary Bevilacqua Present

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2011-007597-001 DT

04/24/2015

CR2013-110974-001 State v. Richard Molina Luzania	State's Attorney: Defendant's Attorney: Defendant:	Jessi Wade Robert Reinhardt Presence Waived
CR2013-458974-001 State v. Alex Anthony Madrid	State's Attorney: Defendant's Attorney: Defendant:	Susie Charbel Bobbi Falduto and Angela Walker Present
CR2012-133415-001 State v. Joseph Michael Matthews	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher for Juan Martinez John Curry and Lisa Gray Present
CR2013-004357-001 State v. Robin Leroy McJunkin	State's Attorney: Defendant's Attorney:  Defendant:	Susie Charbel Bobbi Falduto for Lawrence Blieden; Jennifer Roach Presence Waived
CR2014-128973-001 State v. Gary Michael Moran	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher for Patricia Stevens Bobbi Falduto and Angela Walker Present
CR2011-138281-001 State v. Jason Neil Noonkester	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher Susan Corey and Peter Jones Presence Waived
CR2013-462024-001 State v. Ricardo Alejandro Ramirez	State's Attorney: Defendant's Attorney:  Defendant:	Jeannette Gallagher for Vince Imbordino Alicia Dominguez for Lawrence Matthew; Terry Bublik Present
CR2013-002559-002 State v. Thomas Michael Riley	State's Attorney: Advisory Counsel: Defendant:	Jeannette Gallagher for Vince H. Imbordino Randall Craig and Benjamin Taylor Present – <i>pro per</i>
CR2012-138236-001 State v. Dwandarrius Jamar Robinson	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher for Jay Rademacher Jaime Hindmarch Present
CR2012-114731-001 State v. Jarvis Jovan Ross	State's Attorney: Defendant's Attorney: Defendant:	Jessi Wade for Ryan Green Susan Corey for Gary Beren Presence Waived
CR2010-007882-001 State v. Jasper Phillip Rushing	State's Attorney: Defendant's Attorney: Defendant:	Jeannette Gallagher Randall J. Craig and Stephen Duncan Present

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2011-007597-001 DT

04/24/2015

CR2004-005523-001  
State v. Joshua Idlefonso  
Villalobos

State's Attorney:	Jessi Wade for Patricia Stevens & Ryan Green
Defendant's Attorney:	Alicia Dominguez for Lawrence Matthew; Terry Bublik
Defendant:	Presence Waived

CR2014-108856-001  
State v. Judith Elaine Walthers

State's Attorney:	Jeannette Gallagher for Laura M. Reckart
Defendant's Attorney:	John Canby and Jeremy Bogart
Defendant:	Present

The Court has received a camera request. On behalf of Defendant Macario Lopez, Mr. Bevilacqua objects to Defendant's face and the security personnel present being photographed; the objection is joined by all defendants.

For the reasons stated on the record,

IT IS ORDERED excluding photography, still or video, of any defendants at this time. No other exclusions are made. The still photographer is instructed not to use or disseminate any of the photos of defendants already taken today. This ruling is without prejudice to the media to challenge this decision; the Court will set a hearing to allow time for defense counsel to respond to the media request.

The Court has reviewed the following pleadings filed in CR2011-007597-001: 1) Defendant's Motion for Evidentiary Hearing in Support of Motion to Strike Notice of Intent to Seek the Death Penalty filed March 25, 2015; 2) Defendant's Initial Notice of Disclosure filed March 25, 2015 containing disks; 3) the State's Response filed March 27, 2015; and 4) Defendant's Reply filed April 17, 2015.

The Court considers Mr. Bevilacqua's filings in CR2011-007597-001, State v. Lopez, as the lead filings joined by the other defendants.

Ms. Corey addresses the defense view of the facts as set forth in the Initial Notice of Disclosure.

The Court accepts the statistics as provided by Professor Spohn for purposes of the argument on the Motion to Dismiss State's Notice of Intent to Seek the Death Penalty.

Mr. Crocker argues that defendants have a right to an evidentiary hearing to show that their data is factual in nature.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2011-007597-001 DT

04/24/2015

The Court finds that the defendants do not have the right to an evidentiary hearing to prove facts that the Court is accepting as true for purposes of the argument.

Mr. Crocker moves on behalf of all defendants to stay this proceeding to address the issue with the Court of Appeals of whether or not defendants are entitled to an evidentiary hearing.

The request for stay is denied.

Upon motion of Mr. Bevilacqua and Ms. Corey, the disks accompanying the Initial Notice of Disclosure will be marked and received in evidence as exhibits following the oral argument.

IT IS ORDERED directing all attorneys to submit the disks attached to the Initial Notice of Disclosure dated March 25, 2015 so they may be admitted into evidence in each case, if they have not already done so.

Mr. Crocker advises the Court that he has filed a Notice of Claim of Statue Challenge (A.R.S. § 13-751 *et al.*) on behalf of Macario Lopez. The Notice was delivered to the Speaker of the House, President of the Senate and the Arizona Attorney General pursuant to statute. The Court assumes all defendants are joining in and have filed that Notice.

The Court's standing ruling on the camera request is to allow still and video cameras, but not to allow defendants individually or as a group be photographed. Because any reconsideration of that ruling may affect whether defendants choose to be present on May 8,

IT IS ORDERED that any challenge regarding the Court's standing camera ruling shall be filed by **Wednesday, April 29, 2015**. The Court will set a hearing if a request for reconsideration is received.

IT IS ORDERED that no later than Tuesday, April 28, 2015, all defense counsel shall affirmatively notify the Court whether their clients wish to be present at the oral argument on May 8. (**See "Later."**) If no notice is received, the Court will take the default position that the defendant *does* want to be present and will issue a "by any means" order if the defendant verbally refuses to attend.

IT IS ORDERED affirming Oral Argument on the Motion to Dismiss State's Notice of Intent to Seek the Death Penalty on **May 8, 2015 at 1:30 p.m.** in this Division.

2:27 p.m. Matter concludes.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2011-007597-001 DT

04/24/2015

**Later:**

The Court notes that the deadline to advise the Court whether defendants will be present on May 8, 2015 should be **Tuesday, May 5, 2015** (not April 28, 2015).